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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,020	07/23/2003	Kevin L. Parsons	89199	8420

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EXAMINER

PIERCE, WILLIAM M

ART UNIT PAPER NUMBER

3711

DATE MAILED: 09/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/625,020

Applicant(s)

PARSONS, KEVIN L.

Examiner

William M. Pierce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 26 June 2006.

2) ☒ This action is FINAL

2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 55-90 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 55-90 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


WILLIAM M. PIERCE
PRIMARY EXAMINER

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)

Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

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DETAILED ACTION

Claims 55 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are the actuator button. The specification does not disclose where the apparatus can function without the actuator button cooperating against the actuator.

Claims 55, 70, 77, 78, 80 and 88 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claims 55 and 77, a "cap may be depressed in a generally radial direction" is not disclosed. While it is supposed that the radial direction is inward and downward or the like, nothing in the specification makes it clear the direction that is intended by this term. Further, nowhere in the specification does it refer to a "dispenser" or a "cap". The specification discusses connector coupling 16 and plunger housing 70 the operation of safety slide button 78 and 80 only. The terms used in the claims must be consistent with that of the specification. In claims 70 and 88 the "foam material" is not disclosed in the specification.

Claims 55 xxxxx are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 55, 74 and 75, "the pressurized spray cartridge" and "the chemical" lacks a proper antecedent. While functionally mentioned in the preamble, neither is positively referred to in the body. More on point here is that one cannot determine if the cartridge and the chemical are being claimed in combination as a necessary part of the invention. Likewise in claim 75 "the pressurized spray cartridge" and "the chemical" lacks a proper antecedent and clarity as to whether or not they are being claimed in combination. "The second end" and "the movement of the cap between the first and second positions" lacks a proper antecedent. In claim 74, the term "snap movement" is unclear and indefinite. Such a motion is subjective without a definite means to determine what such a movement entails. In claim 75, "the combined body" lacks clear antecedents.

Claims 60, 74 and 79 is rejected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

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Claims 60 and 74 are functional and fails to further limit the claimed invention. Claim 79 sets forth how the apparatus is to be used and fails to further limit the structure previously claimed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 75-79 and 81-90 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeLucia 3,776,429 in view of Parsons 6,283,609.

As to claims 75-79, 83, 84, 85, DeLucia shows a dispenser 32 to receive a cartridge 44 having an orifice 62 in a forward portion. He further shows an actuator 130, button 122 and end 16 capable of connection between an end cap. DeLucia does not discuss the connection of his device with a baton. Parsons '609 teaches combining apparatus such as that of DeLucia with a baton in order to be able to additionally use it to strike a person. To have combined a baton capable of attaching at end 16 would have been obvious as taught by Parsons in order to make it a more effective striking weapon. As to claims 81 and 82, DeLucia shows a nozzle plate 17 that is inherently interchangeable with a replacement for repair meeting the limitations of the claim. As to claims 86 and 87, 34 is considered to be an insertable sleeve. As to claim 88, making sleeve 34 of foam is considered to be an obvious matter of choice in materials. Applicant has not shown were such a material is critical to the claimed invention by solving any particular problem or producing any unexpected results. As to claim 89, the discharge orifice is considered to be axial aligned to the nozzle of the cartridge via tube 64. As to claim 90, the tubular body at 46 coupled to the coupling connector 34.

Conclusion

As to claim 55-74 and 80, DeLucia shows a dispenser 32 to receive a cartridge 44 having an orifice 62 in a forward portion. He further shows an actuator 130 and a cap of elements that could be considered elements 96 and 122 combined. However, both elements are not capable of moving from a first and second positions and being depressed radially. Likewise the actuator mechanism of Chen is similar, however the cap 58 does not move from a first to a second position. Pierpoint shows an electronic button. In Cellini, button 40 must be depressed before


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actuator button 34 can be slide forward. Examiner could not find the claimed safety button in the broad prior art of actuator buttons, switches or triggers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William Pierce whose telephone number is 571-272-4414 and E-mail address is bill.pierce@USPTO.gov. The examiner can normally be reached on Monday and Friday 9:00 to 7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



WILLIAM M. PIERCE
PRIMARY EXAMINER